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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,034	12/16/2005	Masahiro Endo	DI-5966	3565

29200 7590 12/22/2006
BAXTER HEALTHCARE CORPORATION
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EXAMINER

WITCZAK, CATHERINE

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/535,034

Applicant(s)

ENDO ET AL.

Examiner

Catherine N. Witczak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/17/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-30 in the reply filed on 10/24/2006 is acknowledged. The traversal is on the ground(s) that examining the remaining claims would not be a burden on the examiner. This is not found persuasive because the remaining non-elected claims are classified in separate subclasses, and would therefore require additional searching.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 4, 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 26 rejected under 35 U.S.C. 102(b) as being anticipated by Maginot et al (US 6,190,371).

Claims 1, 3, 4, 8, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26: Maginot discloses in Figure 3 and 4 a coiled catheter set comprising: a catheter (34) having first and second ends; an insert (2) defining a cavity and having an extraperitoneal end and an intraperitoneal end; a guide placed in the cavity (column 10, line 44 - column 11, line 34); and the extraperitoneal end including a portion having an increased diameter (74).

Claims 20 and 21: Maginot disclose in Figure 4 the catheter including a cuff (43) which includes flanges.

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2. Claims 1, 2, 5, 7, 9, 10, 11, 13, 23, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Mononen et al (US 5,106,376).

Mononen et al disclose in Figure 1 a catheter set comprising: a catheter (10) having first and second ends; an insert (20) defining a cavity and having an extraperitoneal end and an intraperitoneal end; a guide placed in the cavity (21) before the catheter and insert have been implanted in the patient; a syringe (40); a plug; and a flute like aperture (13) in the wall of the catheter.

3. Claims 1, 6, 11, 12, 16, 25, 27, 28 rejected under 35 U.S.C. 102(b) as being anticipated by Schweich, Jr. et al (US 5,782,797).

Schweich et al disclose in Figure 2 a catheter set comprising: a catheter (90), a polyurethane radio-opaque insert (50; column 4, lines 23-29) defining a cavity and having an extraperitoneal end and an intraperitoneal end which substantially fills the interior space of the catheter; and a guide (40) placed in the cavity of the insert; and apertures (10 and 15) on the walls of both the catheter and the insert

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

cw

www 12/19/00

Kevin C. Sirmons